

**REMARKS/ARGUMENTS**

Entry of this response and reconsideration and allowance of the above-identified patent application are respectfully requested. A request for continued examination (RCE) is submitted herewith.

Claims 1-26, 28-35 and 49 are pending. By this amendment, claims 1, 4, 5, 7, 8, 16, 28, and 49 are amended. No claims have been canceled. Claims 56-65 have been added. No new matter is added. Upon entry of this amendment, claims 1-26, 28-35, 49, and 56-65 will be pending.

Applicant respectfully submits that, upon entry of the subject amendment, the application will be in condition for allowance. Applicant, thus, respectfully requests consideration of the above amendment and following remarks.

Claims 1-26, 28-35 and 49 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publ. No. 2003/0021388 to Starr et al. ("Starr") in view of U.S. Publ. No. 2002/0015387 to Houh ("Houh").

The present invention is directed to a voice over internet protocol (VoIP) test device and method. In one example, the device includes a user interface, a transceiver configured to communicate with the VoIP network, a memory storing a test algorithm, a codec, and a media access controller (MAC). The device may also include a processor in communication with the user interface, transceiver, codec, media access controller, and memory and configured to execute the test algorithm to cause the transceiver to communicate with the VoIP network to test one or more of jitter, packet loss, and latency of the VoIP network. The MAC may form part of the transceiver.

Independent claim 1 (and similarly independent claims 28 and 49) has been amended to require the codec be configured to use a plurality of compression protocols. Support for this limitation may be found in the Summary of Invention and elsewhere. These claims have also been amended to require that the test device include an audio input device and an audio output device. Claim 8 has been amended to require that the audio input device comprise a microphone and the audio output device comprise a speaker.

Claims 55-65 have been added as method claims, with each having a similar apparatus claim that depends from claim 1.

**Prior Art**

Independent claims 1, 28 and 49 stand rejected as being unpatentable over Starr in view of Houh. Starr is directed to a system for determining whether a telephone line is acceptable for use with a DSL service (XLDS services). See abstract. More specifically, the system disclosed by Starr is testing the transmission line (wires) – not the network – to determine whether the connection would support DSL. (See paragraph 22). The tests measure electrical characteristics of the transmissions lines (see paragraph 23). Starr is attempting to find out if the transmission lines will support high speed DSL service or not. The office action concedes that Starr does not disclose a VoIP test device.

Houh is directed to a system for testing network environments and devices (e.g., VoIP Gateways, etc.). The embodiments relied upon use a network emulator that receives VoIP data from a first gateway and modify the digital data by “inserting” jitter, packet loss, etc., and provide the modified digital data to a second gateway to determine how the VoIP gateway devices handle various network conditions. See para. 13 and Figure 3.

**Response to Rejections**

**Independent claims 1, 28, and 49**

As discussed, Starr simply discloses testing the transmission line to determine if DSL can be provided via the transmission line. Houh discloses a network emulator and system used to test VoIP equipment such as a VoIP gateway. Thus, Houh and Starr fail to disclose the claimed invention – the method or structure for testing a VoIP network.

As amended, independent claims 1, 28, and 49 require the codec be configured to use a plurality of compression protocols. Neither Starr nor Houh discloses such a limitation.

The independent claims also require the device include an audio input device (e.g., a microphone) and an audio output device (e.g., a speaker). These claim limitations were present in claim 8 and, by amendment, have been included in the

independent claims. Claim 8 was rejected on page 5 of the office action with reference to paragraphs 15 and 35 and Figure 3 of Starr. None of the cited portions of Starr, nor other portions, disclose an audio output device or an audio input device as part of the test device. Houh is also deficient in its disclosure of these claim elements.

Claims 28 and 49 also require providing an audio output device and an audio input device in the test device **to facilitate bi-directional VoIP communications over a VoIP network by a user.** For example, a user may use the audio input and output devices to make a VoIP telephone call over the VoIP network. Neither Houh nor Starr disclose this claim element.

### **Claims 2**

Claim 2 requires a digital signal processor and claim 3 requires the digital signal processor form the codec. The office action cites to paragraphs 39 and 46 for disclosure of this claim element and states that “the gateway 130 is equipped with processors....”. The claim, however, requires a digital signal processor – not just a processor as intimated. Various embodiments of the present invention include both a digital signal processor 306 and a processor 303, which are distinguished from each other in the specification (see Figure 3 and accompanying text). Neither paragraph relied upon, nor any other portion of Houh, discloses a digital signal processor forming the codec as claimed.

### **Claims 5 and 7**

At page 4, the office action rejects claims 5 and 7 (and other claims) stating that Starr discloses “an ADSL modem can also be considered as power line modem and as cable modem.” Applicant respectfully submits that an ADSL modem cannot be considered equivalent to a power line modem or a cable modem.

For example, power line modems must interface with 120 volts and typically plug into a wall socket, which requires different structure/circuitry from an ADSL modem. Claim 5 has been amended to clarify this distinction. Similarly, ADSL modems typically use a different protocol than cable modems and power line modems. Cable modems use a DOCSIS protocol. Claim 7 has been amended to clarify the distinction. This argument is similarly applicable to new claims 57 and 63.

**Claim 8 (and new claim 58)**

Claim 8 requires the audio input device comprise a microphone and the audio output device comprise a speaker. As discussed above, neither reference includes such disclosure.

**Claim 12 (and new claim 61)**

Claim 12 requires a dual tone multi-frequency encoder as part of the manual input device. The office action rejects claim 12 at pages 4 and 5 but fails to provide a citation for "dual mode voice activity devices". In addition, a dual mode voice activity device is not a dual tone multi-frequency encoder as suggested by the office action. A text search of Houh indicates that Houh does not include the terms "dual tone" or "dual mode" as asserted.

**Claim 16 (and new claim 62)**

Claim 16 requires a Power over Ethernet module configured to supply power to components of the device. The office action rejects claim 16 at page 4, without explanation or citation. Applicant submits both Starr and Houh failed to disclose this claim element.

**Claim 19 (and new claim 64)**

Claim 19 requires the device receive power from a power line communication network. The office action rejects claim 19 at page 5, without explanation or citation. Applicant submits both Starr and Houh failed to disclose this claim element.

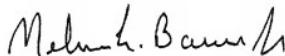
In view of the foregoing, it is respectfully submitted that the claimed invention is patentably distinguished over the asserted prior art references and that the application stands in condition for allowance. It is respectfully requested that the application be reconsidered, that all pending claims be allowed, and that the application be passed to issue.

**CONCLUSION**

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact Mel Barnes at (410) 757-6643, to discuss any other changes deemed necessary in a telephonic interview.

Authorization is hereby granted to charge any deficiencies in fees, including any fees for extension of time under 37 C.F.R. §1.136(a), to Deposit Account 50-3970. Please credit any overpayment in fees to the same deposit account.

Respectfully submitted,



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